

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2019-209-E - ORDER NO. 2021-503  
JULY 26, 2021

IN RE: South Carolina Energy Freedom Act (House	)	ORDER APPROVING
Bill 3659) Proceeding Related to Dominion	)	VOLUNTARY
Energy South Carolina, Incorporated and S.C.	)	RENEWABLE ENERGY
Code Ann. Section 58-41-30 Related to	)	(VRE) RIDER
Electrical Utilities and Their Current	)	
Voluntary Renewable Energy Programs, and	)	
Such Other Proceedings Required By the	)	
Commission	)	

**I. INTRODUCTION**

This matter comes before the Public Service Commission of South Carolina (“the Commission”) for consideration of the Voluntary Renewable Energy Program Rider (“VRE Rider”) filed by Dominion Energy South Carolina, Incorporated (“DESC” or “Company”) pursuant to S.C. Code Ann. Section 58-41-30. The VRE Rider was originally filed on September 13, 2019 by the Company. Prior to consideration by the Commission, the Company updated its proposed VRE Rider on September 21, 2020, and again on November 10, 2020 as Exhibit JEF-1 to the verified testimony of DESC Witness Folsom. On December 1, 2020, DESC agreed with Intervenor South Carolina Solar Business Alliance (“SCSBA”) and revised the rider to allow for the billing credit under the VRE Rider and the payment to the supplier for energy under the associated Power Purchase Agreement (“PPA”). As explained herein, the Commission adopts and approves the VRE Program Rider filed by DESC on November 10, 2020 and updated through December 1,

2020, with one change to allow for a contract term of up to twenty (20) years with the calculations for the Net Energy Rate adjusted every ten (10) years based on the then-current market conditions, assumptions, and avoided costs.

## **II. ANALYSIS AND DISCUSSION**

According to DESC, any non-residential DESC customer with a new or existing contact demand greater than or equal to one megawatt (“MW”) at a single metered location or aggregated across multiple metered locations under direct ownership of a single customer may qualify for the VRE Rider. The VRE Rider is available on a first come, first serve basis until the total capacity committed under the RG-Supply Agreements entered into under the VRE Rider equals 135 MW. To qualify for the VRE Rider, each Customer locates its own renewable energy supplier (“Supplier”) and enters into a form RG-Supply Agreement. A separate RG-Supply Agreement is required for each Customer and each renewable energy facility, as defined by S.C. Code Ann. § 58-41-10(12) (“Facility”). The Customer negotiates the prices and contract term of the RG-Supply Agreement with the Supplier, including supply costs to be paid to the Supplier. Additionally, the Company enters into a new PPA with the Supplier.

The PPA must have terms consistent with the form contract power purchase agreement filed in Public Service Commission of South Carolina Docket No. 2019-184-E. The PPA specifies the total charges to be paid for the delivery of energy and capacity supplied under the PPA. Multiple customers can have renewable energy and capacity provided from a single facility under a single PPA, but each customer must negotiate

separate RG-Supply Agreements specifying the percentage of the Facility's output for each customer.

DESC asserts that, in conformance with Section 58-41-30, the customer selects the supplier and enters into the RG-Supply Agreement. Therefore, the VRE Rider meets the requirement under this Code section that "The participating customer shall have the right to select the renewable energy facility and negotiate with the renewable energy supplier on the price to be paid by the participating customer for the energy, capacity, and environmental attributes of the renewable energy facility and the term of such agreement so long as such terms are consistent with the voluntary renewable program service agreement as approved by the Commission." S.C. Code Ann. Section 58-41-30(A)(1).

The VRE Rider provides that "The renewable energy contract and the participating customer agreement must be of equal duration." S.C. Code Ann. Section 58-41-30(A)(2). Per the VRE Rider, the RG-Supply Agreement and PPA shall be of equal duration provided that the term of neither agreement exceed the lesser of (a) ten (10) years, or (b) the remaining term of the Customer's electric service contracts associated with service under the VRE Rider, whichever expires first (not considering automatic renewable terms).

Further, DESC notes that the VRE Rider provides that the Company shall bill the Customer for electric service as specified in its rates and tariffs and subject to its General Terms and Conditions of service that would otherwise apply to service to the Customer (Base Bill). Additionally, the VRE Rider provides that the Customer shall pay to the Company a Product Charge, which is the sum of the Customer's pro rata portion of the Net Energy Rate payable under the PPA and the RG costs. The Company will pay the Supplier

the Net Energy Rate payable under the PPA and provide the Customer with a credit on its bill for the Customer's pro rata portion of that amount for the month. The Company will assign to the Supplier all of the Company's rights, title and interest in the amounts actually paid by the Customer for RG Costs. Lastly, the Customer will pay a monthly administration fee of \$375 per month for each RG-Supply Agreement, plus an additional \$50 per additional meter or account subject to the RG-Supply Agreement.

DESC asserts that eligible customers are allowed to bundle their demand under a single participating customer agreement and renewable energy contract and be eligible to procure an amount of capacity as approved by the Commission, but the capacity provided under the RG-Supply Agreement may not exceed 125% of the Customer's contracted demand under the Customer's electric service contracts associated with service to be provided under that RG-Supply Agreement.

Finally, DESC states that the Rider ensures that non-participating customers are not charged for any costs incurred, since the customer's payment of the RG Cost is assigned to the Supplier as the Supplier's sole source of payment under the RG-Supply Agreement.

Subsequent to the initial filing, DESC agreed with the South Carolina Solar Business Alliance to a revised rider that allows for the billing credit under the VRE Rider and the payment to the supplier for energy under the associated Power Purchase Agreement to reflect either a fixed levelized pricing of energy and capacity, or a day-ahead hourly pricing for energy and capacity. The choice between the billing credit options is determined at the customer's discretion with the agreement of the supplier. Accordingly,

DESC has restructured other terms of the proposed rider to support this selection specific to the flow of funds provision. Administrative charges were also reduced and restructured.

Further, Walmart Inc. recommended that the Commission change the overall term limit to a maximum of twenty (20) years rather than the ten (10) years proposed by the Company. The Company did not agree to such a change, but believes that contracts should be renegotiated after ten (10) years to reflect the then current PURPA requirements and avoided costs. However, Walmart Inc. also recommended that, although the underlying RG-Supply Agreement and PPA could be for a term greater than ten (10) years, the calculations for the Net Energy Rate would be readjusted every ten (10) years based on the then-current market conditions and assumptions. According to Walmart Inc., this alternative would allow customers to enter into RG-Supply Agreements with terms greater than ten (10) years (up to twenty (20) years) while keeping the economics of the Net Energy Rate in line with a ten (10) year PPA. Under Walmart's theory, the potential for longer contract terms makes the VRE Rider more attractive to suppliers and enables customers to negotiate more favorable pricing.

The Commission has examined the proposals presented by the parties and believes that the Voluntary Renewable Energy Program Rider filed by DESC on November 10, 2020, should be approved and adopted with one change. We agree with Walmart Inc. that the Rider should allow for a contract term of up to twenty (20) years with the calculations for the Net Energy Rate adjusted every ten (10) years based on the then-current market conditions, assumptions, and avoided costs. We agree that the potential for longer terms

makes the VRE Rider more attractive to suppliers and enables customers to negotiate more favorable pricing.

Further, the Commission may periodically review the VRE Rider, pursuant to S.C. Code Ann. Section 58-41-30, to make adjustments. This rider applies to eligible commercial and industrial customers of DESC. It does not involve or require any determination of the entire rate structure or overall rate of return for DESC and does not involve any rate increase.

## **II. FINDINGS OF FACT**

Based upon consideration and review of the information and filings in the record, the Commission makes the following findings of fact:

1. The Commission is considering for approval the Voluntary Renewable Energy Program Rider (“VRE Rider”) filed by Dominion Energy South Carolina, Incorporated (“DESC”) on November 10, 2020.

2. According to DESC, any non-residential DESC customer with a new or existing contact demand greater than or equal to one megawatt (“MW”) at a single metered location or aggregated across multiple metered locations under direct ownership of a single customer may qualify for the VRE Rider.

3. The VRE Rider is available on a first come, first serve basis until the total capacity committed under the RG-Supply Agreements entered into under the VRE Rider equals 135 MW.

4. To qualify for the VRE Rider, each Customer locates its own renewable energy supplier (“Supplier”) and enters into a form RG-Supply Agreement. A separate RG-

Supply Agreement is required for each Customer and each renewable energy facility, as defined by S.C. Code Ann. § 58-41-10(12) (“Facility”). The Customer negotiates the prices and contract term of the RG-Supply Agreement with the Supplier, including supply costs to be paid to the Supplier. Additionally, the Company enters into a new Power Purchase Agreement (“PPA”) with the Supplier.

5. The PPA must have terms consistent with the form contract power purchase agreement filed in Public Service Commission of South Carolina Docket No. 2019-184-E.

6. The PPA specifies the total charges to be paid for the delivery of energy and capacity supplied under the PPA. Multiple customers can have renewable energy and capacity provided from a single facility under a single PPA, but each customer must negotiate separate RG-Supply Agreements specifying the percentage of the Facility’s output for each customer.

7. The terms of the VRE Rider filed by DESC on November 10, 2020 are reasonable, with one exception. The proposed Rider should be amended to allow for a contract term of up to twenty (20) years with the calculations for the Net Energy Rate adjusted every ten (10) years based on the then-current market conditions, assumptions, and avoided costs.

### **III. CONCLUSIONS OF LAW**

Based upon consideration and review of the information and filings in the record, the Commission makes the following conclusions of law:

1. The terms of the VRE Rider as filed by DESC on November 10, 2020, are consistent with the terms of S.C. Code Ann. Section 58-41-30, although the contract term

must be changed so as to allow a contract term for up to twenty (20) years with the calculations for the Net Energy Rate adjusted every ten (10) years based on the then-current market conditions, assumptions, and avoided costs.

2. The PPA resulting from the Rider must have terms consistent with the form contract power purchase agreement filed in Public Service Commission of South Carolina Docket No. 2019-184-E.

3. S.C. Code Ann. Section 58-41-30 provides that the Commission may periodically review the VRE Rider to make adjustments. This rider applies to eligible commercial and industrial customers of DESC. It does not involve or require any determination of the entire rate structure or overall rate of return of Dominion Energy South Carolina, Incorporated and does not involve any rate increase.

#### **IV. ORDERING PARAGRAPHS**

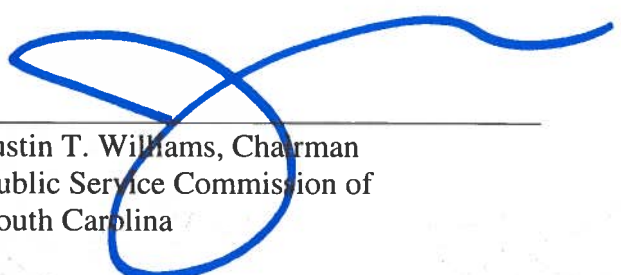
1. The Voluntary Renewable Energy Program Rider filed by Dominion Energy South Carolina, Incorporated on November 10, 2020, is approved, with one change, which allows for a contract term of up to twenty (20) years with the calculations for the Net Energy Rate adjusted every ten (10) years based on the then-current market conditions, assumptions, and avoided costs. A copy of the approved VRE Rider is attached as Order Exhibit 1.

2. The Commission may periodically review the VRE Rider to make adjustments.



This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:



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Justin T. Williams, Chairman  
Public Service Commission of  
South Carolina

## RIDER TO RETAIL RATES

VOLUNTARY RENEWABLE ENERGY ("VRE") RIDER FOR  
RENEWABLE GENERATION ("RG") SUPPLY AGREEMENTS

(Page 1 of 5)

## AVAILABILITY

This VRE Rider (Rider) is available in conjunction with the Company's Retail Non-Residential Electric Service Rates, the terms of which are incorporated herein by reference as an alternative to special contracts related to electrical service provided through renewable energy which are subject to Commission approval on a case by case basis. This Rider is only available to a non-residential customer (Customer) with a new or existing contract demand greater than or equal to one megawatt (1 MW) at a single metered location or aggregated across multiple metered locations under direct ownership of a single Customer and served by Dominion Energy South Carolina, Inc. (Company). This rider is available on a first come, first serve basis until the total capacity committed under renewable generation supply agreements (RG-Supply Agreements) entered into under this Rider shall equal 135 MW.

## RG-SUPPLY AGREEMENT

The RG-Supply Agreement subject to this Rider shall provide for the renewable energy supplier (Supplier) to provide electric power and capacity to the Company's electrical system from a renewable energy facility as defined by S.C. Code Ann. § 58-41-10(12) (Facility). A separate RG-Supply Agreement shall be required for each Customer and each Facility. The Company shall not be the Supplier. The RG-Supply Agreement shall specify the price to be paid to the Supplier (Negotiated Rate) for renewable energy and capacity under the terms of this Rider. The participating Customer shall negotiate the Negotiated Rate and contract term of the RG-Supply Agreement with the Supplier so long as consistent with the VRE program set forth in this Rider. The RG-Supply Agreement shall be cross defaulted to the PPA such that a default by the Supplier under the terms of the PPA shall result in concurrent termination of the RG-Supply Agreement and service under this VRE Rider.

## POWER PURCHASE AGREEMENT

The supply of renewable energy shall be subject to a new Power Purchase Agreement (PPA) executed between the Company and Supplier with terms consistent with the form contract power purchase agreement filed in Public Service Commission of South Carolina (Commission) Docket No. 2019-184-E or such successor contract as may be approved by the Commission except as otherwise provided herein. At the Customer's option, and with the agreement of the Supplier, the PPA shall specify that the total charges to be paid for the delivery of energy and capacity supplied under the PPA (the "Net Energy Rate") for either

1. The levelized avoided cost rates for energy and capacity for which the PPA is otherwise eligible at the time of contracting, or
2. The day-ahead hourly rate for energy and capacity on the Company's system applied on an hourly basis to the energy provided to the Company's system by the Supplier.

The levelized avoided cost rates for energy and capacity shall be derived using the then Commission-approved methodology for avoided cost calculations. The day-ahead hourly rate for capacity and energy shall be computed as set forth in Attachment A. The selected pricing option shall remain in force during the full term of the PPA. If the term of the PPA exceeds ten (10) years beyond the Commercial Operation Date of the Facility (as defined in the PPA), the initial ten-year Net Energy Rate shall be established at the outset of the contract and the Net Energy Rate for any subsequent period of the contract shall be adjusted at the end of the initial ten (10) year term based upon the then-current market conditions, assumptions, and avoided costs. No less than one hundred eighty (180) days prior to the effective date of such adjusted Net Energy Rate, the Company shall notify the Customer and the Supplier of the applicable adjusted Net Energy Rate.

## INITIAL AND INDICATIVE PRICING

Upon initial approval of this Rider by the Commission, the Company will establish a date on which the program will open for Customers to submit applications (Opening Date). Thirty (30) days in advance of the Opening Date, the Company will establish the levelized avoided cost rates for energy and capacity that will be available for Customers submitting applications on the Opening Date. The Company will provide notice of such avoided cost rates to all Customers who so request. These rates will be available on a first-come, first-served basis to Customers submitting applications (i) by 5:00 p.m. EPT on the Opening Date and (ii) in proper form up to the 135 MW cap generally applicable to the program. The price commitment shall lapse if the Customer fails to complete the process for **Qualification Under the Rider and Expiration of the Application** as specified herein. During the 30-day period ending on the Opening Date, the Company shall treat all 135 MW of potential program capacity as committed capacity for avoided cost rates calculations for all purposes. Pending qualifying Customers' completion of the process for **Qualification Under the Rider and Expiration of the Application**, the Company shall treat all capacity reflected in the Customers' accepted application as committed capacity for avoided cost rates calculations for all purposes. After 5:00 p.m. EPT on the Opening Date, the Company will provide indicative avoided cost rate information to Customers on request.

Order Exhibit 1

Docket No. 2019-209-E - Order No. 2021-503

July 26, 2021

Page 1 of 5

**DOMINION ENERGY SOUTH CAROLINA, INC.**

**ELECTRICITY**

**RIDER TO RETAIL RATES**

**VOLUNTARY RENEWABLE ENERGY ("VRE") RIDER FOR  
RENEWABLE GENERATION ("RG") SUPPLY AGREEMENTS**

(Page 2 of 5)

That indicative pricing will in no way be binding on the Company and avoided costs rates shall be as established at the time of contracting.

**MULTIPLE CUSTOMERS FOR A SINGLE FACILITY AND PPA**

Multiple Customers may negotiate separate RG-Supply Agreements for separate quantities of renewable energy and capacity provided from a single Facility under a single PPA. In such case each Customer's RG-Supply Agreement shall reference a specified percentage of the Facility's output and each Customer shall be allocated a pro rata share of actual output accordingly.

**APPLICATION FOR AN RG-SUPPLY AGREEMENT**

The Customer shall apply for an RG-Supply Agreement by submitting to the Company an application (Application) on a form to be provided by the Company including:

1. The Customer's name and address.
2. The location(s) and Customer account(s) to which the Rider will apply.
3. The contract demand of each such account.
4. The effective date and expiration date of the contract for each such account.
5. The anticipated allocation of RG supply among accounts.
6. The name and location of the Facility along with
  - a. The name and address of its owner or developer, *i.e.*, the Supplier,
  - b. Its renewable energy source,
  - c. Its net reliable summer and winter capacities,
  - d. Its expected commercial operation date,
  - e. The percentage of its energy and capacity to be purchased,
  - f. Its position in the interconnection queue if applicable, and
  - g. The pricing methodology for the PPA agreed upon by Customer and Supplier.
7. A signed statement by the Supplier supporting the Application and agreeing to enter into negotiations of a RG-Supply Agreement and PPA with Customer and the Company.
8. Such other information as the Company may reasonably require.
9. A non-refundable application fee of \$2,000.

**FORMATION OF AN RG-SUPPLY AGREEMENT**

Upon receipt of an Application in due form and the application fee, the Company will notify the Customer and provide the Customer and the Supplier with a form RG-Supply Agreement to serve as the basis of negotiation of a definitive RG-Supply Agreement for signature by the parties incorporating the terms of this Rider. At conclusion of the negotiations, the Customer shall provide to the Company for signature an RG-Supply Agreement, in a form satisfactory to the Company, which is duly executed by the Customer and the Supplier.

**QUALIFICATION UNDER THE RIDER AND EXPIRATION OF THE APPLICATION**

The Customer shall qualify for service under this Rider only when the Company has signed and delivered to Customer and Supplier the RG-Supply Agreement and a PPA, each executed by all necessary parties. The Application shall expire if an RG-Supply Agreement and PPA are not signed by the parties within ninety (90) days of the date that the Application is submitted or if the 135 MW cap has been exhausted before qualification.

**NO CROSS SUBSIDIZATION**

None of the costs of the RG-Supply Agreement or of the PPA subject to an RG-Supply Agreement may be borne by the Company or Company's non-participating customers.

**TERM**

The RG-Supply Agreement and PPA shall be of equal duration provided that the term of neither agreement exceed the lesser

## RIDER TO RETAIL RATES

**VOLUNTARY RENEWABLE ENERGY ("VRE") RIDER FOR  
RENEWABLE GENERATION ("RG") SUPPLY AGREEMENTS**  
(Page 3 of 5)

of (a) twenty (20) years, or (b) the remaining term of the Customer's electric service contracts associated with service under the Rider whichever will expire first (not considering automatic renewal terms.) The Customer must agree to take electric service exclusively from the Company for the life of the RG-Supply Agreement and PPA. The Supplier's rights under the PPA shall survive termination of the RS-Supply Agreement due to default by the Customer. No RG-Supply Agreement or PPA shall be for a term of less than one year.

**ENERGY AND CAPACITY**

The capacity provided under the RG-Supply Agreement may not exceed one hundred and twenty-five percent (125%) of the Customer's contracted demand under Customer's electric service contracts associated with service to be provided under that

RG-Supply Agreement. The energy to be provided under the RG-Supply Agreement, as determined by the Company based on the expected capacity factor of the supply resources subject to the PPA, may not exceed the Customer's energy usage over the 12-month period prior to the date that the RG-Supply Agreement is tendered to the Company. If the Customer's energy usage data for that period is atypical as determined by the Company in its reasonable discretion, or if service under this Rider includes new incremental load, the energy usage shall be as reasonably forecasted by Company.

**ENVIRONMENTAL ATTRIBUTES**

All environmental attributes of the electric supply provided under the RG-Supply Agreement shall belong to the Customer. The Company shall bear no costs or risks associated with the creation, certification, registration, documentation, tracking and use of the environmental attributes.

**NOTICES AND EXERCISE OF RIGHTS UNDER THE PPA**

The Customer shall have the right upon reasonable written request to receive all reports, notices and billing data provided by or available from the Supplier under the PPA. The Customer shall have the right to consult with the Company where reasonably practical on the Company's exercise of rights under the PPA. The Company, however, shall act exclusively on behalf of its system, its customer base generally and system reliability in exercising its rights under the PPA or RG-Supply Agreement. The Company shall not act as Customer's agent nor shall any fiduciary relationship exist with regard to the Company's exercise of any rights under the PPA or the RG-Supply Agreement. The Company shall not be liable to Customer for the exercise of or failure to exercise any rights under the PPA or the RG-Supply Agreement.

**BASE BILL**

The Company shall bill the Customer for electric service as specified in its rates and tariffs and subject to its General Terms and Conditions of service that would otherwise apply to service to the Customer (Base Bill).

**NEGOTIATED RATE AND PPA COSTS**

In addition to the Base Bill, the Customer shall pay to the Company the Negotiated Rate (which includes the Net Energy Rate) and all applicable administrative program fees as set forth within this Rider. In all cases in which the PPA is committed to multiple Customers pursuant to this Rider, the payment by the Customer of the Net Energy Rate under the PPA will be pro-rated to reflect the Customer's allocated percentage of capacity and energy.

**ASSIGNMENT AND CREDITING OF  
PAYMENTS**

To ensure that the Company's obligation to the Supplier will be limited to the Net Energy Rate payable under the PPA and actual payments from the Customer of the Negotiated Rate, the RG Supply Agreement shall provide that:

1. The Company will pay the Supplier the Net Energy Rate payable under the PPA. This amount shall be included as cost of fuel and capacity for purposes of annual fuel clause calculations under S.C. Code Ann. § 58-27-865.
2. The Supplier will assign the payment of the Net Energy Rate under the PPA to the Company for credit back to the Customer on its monthly bill.

DOMINION ENERGY SOUTH CAROLINA, INC.

ELECTRICITY

**RIDER TO RETAIL RATES****VOLUNTARY RENEWABLE ENERGY ("VRE") RIDER FOR  
RENEWABLE GENERATION ("RG") SUPPLY AGREEMENTS**

(Page 4 of 5)

3. The Company will provide the Customer a credit on its bill for the Net Energy Rate payable to the Supplier under the PPA for that month and as assigned to the Company by the Supplier for that purpose. If the PPA serves multiple Customers under this Rider, then the Customer's credit shall be pro-rated to reflect the Customer's allocated percentage of capacity and energy under the PPA.
4. The Customer will pay the Company the Negotiated Rate payment for each month.
5. The Company will assign to the Supplier all of the Company's rights title and interest in the amounts actually paid by the Customer under the Negotiated Rate. This assignment will be the Supplier's exclusive source of payment for such payments. The Negotiated Rate deemed to be paid by the Customer in any given month shall in no event exceed the amount remaining after all other costs and charges are properly deducted from Customer's payment against its electric bill for that month.

**INCORPORATED TERMS**

The form RG-Supply Agreement shall reflect terms consistent with the Company's form contract power purchase agreement filed in Commission Docket No. 2019-184-E including without limitation terms concerning Force Majeure, Default, Termination, Remedies, Limitation of Liabilities, Indemnification, Representations, Warranties and Covenants, Dispute Resolution, Assignment, Notices, Third Party Beneficiaries, Dedication, Integration, Amendment, Governing Law, Relationship of Parties, Good Faith and Fair Dealing, Severability, Cooperation, Forward Contracts, Waiver, Confidentiality, Permitted Disclosures, Goodwill and Publicity, Regulatory Matters, Termination, Survival, Change in Law, Choice of Venue and other terms. These incorporated terms shall be in addition to the specific terms of the VRE Program listed here and other terms consistent with the nature of the proposed VRE supply to be purchased by the Customer and the PPA under which that purchase will take place.

**TERMINATION**

In addition to any Incorporated Terms related to Termination, the Company may terminate the RG-Supply Agreement (a) upon bankruptcy, or insolvency of the Customer or Supplier, (b) upon termination of Customer's service on the account or accounts served under this tariff or non-payment of the bill for any such account when due, (c) upon Customer reducing its contract demand on Company's system to a level less than the amount stated in the RG-Supply Agreement, or (d) upon termination of the associated PPA.

**ASSIGNMENT**

The Customer, or the Supplier in the case of the Customer's default, may assign the right to benefit from the RG-Supply Agreement to another customer which shall provide the Company with written notice that it is willing and able to take service under this tariff. The right to assign shall be conditional on (a) the new customer having contract demand and energy usage sufficient to meet the capacity and energy terms of the RG-Supply Agreement in question, (b) the Customer or Supplier paying all cost due to the Company that the Customer incurred prior to the transfer, and (c) the transfer occurring no more than 30 days after termination of Customer's service.

**FEES**

The Customer shall pay a monthly administration fee of \$375 per month for each RG-Supply Agreement plus an additional \$50 per additional account subject to the RG-Supply Agreement. The Company may adjust the fee from time to time to reflect intervening changes in the Producer Price Index as reported by the US Department of Labor or successor index.

**GENERAL PROVISIONS**

The Customer is solely responsible for compliance with any federal, state, county, municipal or other tax laws, rules, and regulations.

DOMINION ENERGY SOUTH CAROLINA, INC.

ELECTRICITY

**RIDER TO RETAIL RATES**

**VOLUNTARY RENEWABLE ENERGY ("VRE") RIDER FOR  
RENEWABLE GENERATION ("RG") SUPPLY AGREEMENTS**  
(Page 5 of 5)

**GENERAL TERMS AND CONDITIONS**

The Company's General Terms and Conditions are incorporated by reference and are part of this Rider.